



Montgomery County Council

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DENIS BILL WOULD REIMBURSE CITIZENS FOR LEGAL FEES FOR SUCCESSFUL APPEALS IN VARIANCE CASES

Councilmember Howard Denis today introduced legislation to permit the County to reimburse County residents for their appeal costs if they successfully appeal a variance decision of the Board of Appeals, which approves exceptions from County land use law.

"We are committed to making sure that the public can participate fully in County processes," said Councilmember Denis. "Sometimes this commitment to public participation bumps into a process that has complex legal requirements. The variance process is an example of this phenomenon.

"The Board of Appeals decides variance cases. In many of its decisions, Board members must resolve unsettled legal issues. Sometimes parties disagree with the Board's interpretation.

"When a citizen feels compelled to go to court and ultimately prevails, that citizen is taking an action that can be helpful to the County. If the Court's decision clarifies a difficult legal issue, it enhances the County's ability to do its job well.

"The citizen is performing a service in helping to define what the law actually means and the citizen should not be required to foot the bill. To do otherwise is to discourage citizens from pursuing these matters."

The legislation, Bill 16-01, is co-sponsored by Council President Blair Ewing and Council member Isiah Leggett. If the County Attorney certifies that an appellate decision in a variance case establishes new case law and clearly reverses a decision of the Board of Appeals, this bill would require the County to reimburse citizens for reasonable legal fees and court costs.

"The need for this bill is not hypothetical," said Councilmember Denis. "It arises from an actual case that went through two appeals to Circuit Court. The history of this case highlights a shortcoming in how the County supports citizens as they participate in our land use process. "

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